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Chapter 11 Trustee

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

14 PATRICIA ISABELLE HEWLETT,  
15 Appellant,  
16 v.  
17 JANINA M. ELDER, Trustee,  
18 Appellee.

Case No. 07-CV-05883 CRB

**[PROPOSED] ORDER GRANTING  
MOTION TO DISMISS APPEAL  
[F.R.C.P. 12(b)(1)]**

Date: February 1, 2008  
Time: 10:00 a.m.  
Place: 450 Golden Gate Ave.  
Courtroom 8, Floor 19  
San Francisco, CA

The Appellee's motion to dismiss the appeal filed by Appellant Patricia Hewlett pursuant to Federal Rule of Civil Procedure 12(b)(1), came on for hearing on February 1, 2008 at 10:00 a.m. Jeffrey L. Fillerup appeared for the moving party, Appellee Janina M. Elder, Chapter 11 Trustee. James Attridge appeared for the Appellant Patricia Hewlett

Based on the papers filed in support of and against the Trustee's Rule 12(b)(1) motion and the argument of counsel, IT IS HEREBY ORDERED that the Trustee's motion is granted and the Appellant's appeal is dismissed because this Court lacks subject matter jurisdiction over the

1 subject of the appeal because the Appellant's notice of appeal was not filed within the 10-day time  
2 period provided in Bankruptcy Rule 8002(a).

3 Dated: February , 2008

4 By:

5 Charles R. Breyer  
United States District Court Judge

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